STRAITS SETTLEMENTS REPORTS.

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IN THE MATTER OF APPLICATION No. 578 OF 1940 TO THE RENT ASSESSMENT BOARD. EX PARTE TAN SWEE ENG.

[C. A. (Terrell, Ag. C.J. (F.M.S.), Aitken, Ag. J.A. and Manning, J.), July 2, 1941]

Increase of Rent (Restriction) Ordinance 1939—Section 7 Subsection 5—Board's powers of rehearing—Proceedings under s. 8.

Section 7 of the Increase of Rent (Restriction) Ordinance 1939 (before it was amended by Ordinance No. 30 of 1941) contained the following sub-section (5):—

"(5) The Board shall have full powers of rehearing, reconsideration and revision in any case, in which it thinks fit to exercise such powers, and at any time."

An application was made to the Board by a tenant to rehear a landlord's application for permission to eject a tenant which came before the board under and pursuant to the terms of section 8 of the Ordinance. The substantive application by the landlord had previously been heard and granted.

Held, on appeal that the powers of rehearing, reconsideration and revision given to the Board by Section 7 Subsection 5 of the Ordinance do not only apply to the applications made under Section 7 Subsection 1 of the Ordinance but also apply to any case and at any time whether in applications under that Section or any other Section of the Ordinance.

Cases referred to:—

(1) *In re Rent Restriction Ordinance 1921 (Melanie Lee's Case)* (1933) S.S.L.R. 536; (1932) M.L.J. 180.

(2) *Barras v. Aberdeen Steam Trawling and Fishing Co.* (1933) A.C. 412.

(3) *Webb v. Outrim* (1907) A.C. 81.

(4) *Robinson Brothers (Breweries Ltd.) v. County of Durham Assessment Committee* (1938) A.C. 321.

(5) *Grey v. Pearson* 6 H.L. Cases 106.

(6) *Rex v. Inhabitants of Newark* 107 E.R. 658.

(7) *Cohen v. The South Eastern Railway Co.* 2 Ex. D. 253.

(8) *Vacher & Sons Ltd. v. London Society of Compositors* (1913) A.C. 107.

(9) *In re Anglo-Greek Steam Company* 2 Eq. 1.

APPEAL from the decision of McElwaine, C.J. [Reported in (1941) M.L.J. 121.]

Roland Braddell for Appellant.

E. R. Koek for Respondent.

Cur. Adv. Vult.

Terrell, Ag. C.J. (F.M.S.)—I have had the advantage of reading the judgment of the Hon'ble Mr. Justice Aitken, Acting Judge of Appeal, and it is unnecessary therefore to recapitulate the facts.

The following questions appear to arise.

(1) Was the judgment in **Melanie Lee's case,**(1) such an authoritative interpretation of the Rent Restriction Ordinance of 1921 that the Ordinance of 1939 must be deemed to have accepted such interpretation when the corresponding sections were re-enacted?

(2) **If Melanie Lee's case** is not such an authoritative decision, what is the proper construction to be put on s. 7 sub-s. 5 of the present Ordinance?

The first question to consider is what *Melanie Lee's case* in fact decided. The head-note reads:—

"It (the Board) has no power to rehear applications under s. 9 sub-s. 5 of the Rent Restriction Ordinance 1921. Such powers of rehearing only apply to applications under s. 9 of the Ordinance, and not to applications under other parts of the Ordinance."

For the purpose of this appeal s. 9 of the 1921 Ordinance may be taken as being identical with s. 7 of the present Ordinance.

I respectfully agree with the learned Chief Justice that if the head-note is justified by the judgment, then upon the principles laid down in *Barras v. Aberdeen Steam Trawling and Fishing Co.,*(2) the Court would be bound to give the present Ordinance the judicial interpretation placed upon the previous Ordinance.

But is the head-note in fact justified? The details of the case are carefully examined in the judgment above referred to, and it is quite certain that Barrett-Lennard, J. never referred to s. 9 sub-s. 5 of the Ordinance throughout his judgment. At page 538 of the Report Barrett-Lennard, J. says:—

"It is the policy of the law that Tribunals shall not review or rehear cases. If they are at liberty to do so, there would never be an end to judicial proceedings at all."

This *prima facie* appears to be a protest against multiplicity of proceedings. The learned Chief Justice has, however, examined the record of the case, and has come to the conclusion that the construction of s. 9 sub-s. 5 must have been argued, and that if it was argued, the head-note gave a correct interpretation of

the effect of the decision. With respect I do not agree. There is no indication in the record itself that any new facts were submitted to the Court. On the contrary one application after another appears to have been made on the same facts. In the circumstances there can be no doubt that the observations of Barrett-Lennard, J. quoted above were directed to this aspect of the case, and that the issue of a writ of prohibition was fully justified quite apart from any construction that might have been placed on s. 9 sub-s. 5 of the Ordinance.

It is now necessary to consider what the rule of construction is. In *Webb v. Outrim,*[3] Lord Halsbury quoting the judgment of Griffiths, C.J., states the rule to be as follows:—

"When a particular form of legislative enactment, which has received authoritative interpretation, whether by judicial interpretation or by a long course of practice, is adopted in the framing of a later Statute, it is a sound rule of construction to hold that the words so adopted were intended by the legislature to bear the meaning which has been so put upon them."

There must therefore be either authoritative judicial interpretation or long practice. In the present case 'long practice' need not be considered. The decision in Melanie Lee's case was in 1921, and was not reported until 1933, the Ordinance having in the meantime been repealed in 1923, and not re-enacted until 1939.

As regards the authoritative judicial interpretation, it has been held that the interpretation must not only be authoritative but also clear (see per Lord Buckmaster in the *Barras case*[2] at page 411).

In the same case Lord Blanesburgh at page 434 quotes the opinion of Lord Blackburn to the effect that the legislature was not to be presumed to have before it every decision of every judge of first instance, and at page 446 Lord Macmillan's judgment points out that the rule where applicable is only a presumption, and not a canon of construction of absolute obligation. At page 447 he says:—

"Where a judicial interpretation is well settled and well recognised the rule ought doubtless to receive effect, but it must I think be a question of circumstances whether Parliament is to be presumed to have tacitly given statutory authority, say, to a single judgment of a competent Court so as to render that judgment, however obviously wrong, unexaminable in this House."

The learned Judge then proceeds to express his preference for the 'golden rule' for the construction of Statutes, namely that the grammatical and ordinary sense of the words is to be adhered to unless it leads to some absurdity, repugnance or inconsistency. In a later case *Robinson Brothers (Breweries) Ltd. v. County of Durham Assessment Committee,*[4] Lord Macmillan recalled that in his judgment in the Barras case he had suggested some obvious limitations to the scope of the doctrine. He puts the rule no higher than this, that when a term or expression which has an established judicial connotation occurs in a Statute, Parliament may well be taken to have employed it in conformity with this usage.

As regards the construction of s. 7 sub-s. 5 of the present Ordinance, I feel no doubt that a clause of general application, phrased in clear and unambiguous terms is not to be restricted, merely because it occurs in a sub-section, and I need not repeat the authorities for this proposition which are referred to in Aitken, J.'s judgment. The sub-section gives the Board the powers of rehearing, reconsideration and revision, in *any case* and at any time. No form of words could be wider or more comprehensive. Apart then from Melanie Lee's case there can be no doubt that the Board's powers of rehearing are quite unfettered. Can it be argued then that the decision in Melanie Lee's case, taken in conjunction with the rule of construction in the Barras case, compels the Court to give s. 7 sub-s. 5 a forced and unnatural contruction? I do not think it can.

To begin with, it is a matter of extreme doubt what Melanie's case in fact decided. No one can say that it is a clear and authoritative decision on the construction of s. 9 sub-s. 5 of the previous Ordinance. No one can say that the sub-section has received a judicial interpretation which is well settled and well recognised. The learned Chief Justice had to examine the record in an attempt to come to a conclusion as to what was actually decided. But the record is not published and no one has suggested that members of the Legislative Council made researches into the Registry of the Supreme Court before reaching a momentous decision whether s. 7 sub-s. 5 of the new Ordinance should exactly conform to s. 9 sub-s. 5 of the previous Ordinance or not. Except on the question of multiplicity of proceedings, Barrett-Lennard J's. judgment is neither clear nor authoritative, and accordingly the rule of construction contended for has no application.

I would, therefore, allow the appeal with costs here and below, and direct that the order for a *mandamus* should issue. The deposit should be paid out to the appellant or his Solicitors.

Aitken, Ag. J.A.—Section 7 of the Increase of Rent (Restriction) Ordinance, 1939, as it stood before

it was amended by Ordinance No. 30 of 1941, reads as follows:—

Orders of the Board

"7 (1) Any landlord or tenant or other person interested may apply to the Board for an order fixing the rent of any premises.

(2) When an application is made to the Board under this section, the Board may refuse to make an order or may make an order authorising the receipt or recovery of the whole or any part of the increased rent or an order fixing the amount by which the rent may be increased.

(3) The Board may also make any such order without application.

(4) Where an order has been made by the Board fixing the rent of any premises, the order shall be binding on all present and subsequent landlords or sublandlords, tenants or subtenants and mortgagees.

(5) The Board shall have full powers of rehearing re-consideration and revision in any case, in which it thinks fit to exercise such powers, and at any time."

The question raised by this appeal may be stated very shortly thus:—did the "full powers of rehearing, re-consideration and revision in any case", which are conferred on the Rent Assessment Board by sub-s. 5 of s. 7, enable the Board to rehear a landlord's application for permission to eject a tenant which came before the Board under and pursuant to the terms of s. 8 of the Ordinance.

The learned Chief Justice returned a negative answer to that question, on the ground that the same question had arisen under the Rent Restriction Ordinance 1921, which expired in 1923, in *Melanie Lee's case*[1], and had there been answered in the negative. He considered that Melanie Lee's case was binding upon him, and acted on the well known principle of statutory interpretation which is stated at pages 269 and 270 of the 8th Edn. of *Maxwell* on the Interpretation of Statutes in the following terms:—

"It may be taken for granted that the Legislature is acquainted with the actual state of the law. Therefore, when the words of an old statute are either incorporated in, or by reference made part of, a new statute, this is understood to be done with the object of adopting any legal interpretation which has been put on them by the Courts. So, the same words appearing in a subsequent Act in **pari materia**, the presumption arises that they are used in the meaning which has been judicially put on them and that, unless there be something to rebut that presumption, the new statute is to be construed as the old one was."

If the learned Chief Justice was right in his view of what Melanie Lee's case decided, I think it is reasonably clear that that case was binding on him and is binding on us: see *Barras v. Aberdeen Steam Trawling and Fishing Co.*,[2]. What we have got to decide in the first place, therefore, is whether the learned Chief Justice is right in holding that the same question as that arising in this case arose, and was decided in Melanie Lee's case. It is only if we decide that question in the negative that we are free to decide whether "the full powers of rehearing, reconsideration and revision in any case", which are conferred on the Rent Assessment Board by sub-s. 5 of s. 7 of the original 1939 Ordinance, did enable the Board to rehear a landlord's application for permission to eject a tenant.

Before proceeding further it appears to be desirable, for the sake of clarity, to point out

1. That s. 9 of the 1921 Ordinance is, except for a few immaterial verbal changes, precisely the same as the original s. 7 of the 1939 Ordinance.

2. That both s. 10 of the 1921 Ordinance, and s. 8 of the 1939 Ordinance, provide that no landlord may apply to any Court for an order for the ejectment of his tenant without the written permission of the Board.

3. That s. 14 sub-s. 1 of the 1921 Ordinance enacts that "every order of the Board shall be final and shall not be called in question in any Court of Law", whereas the original s. 11 sub-s. 1 of the 1939 Ordinance enacted that "an order of the Board shall be final and conclusive and shall not be contested in any Court."

These statutory provisions are those relevant to a consideration of the questions which now await our decision.

Was the learned Chief Justice right in holding that the same question was raised and decided in Melanie Lee's case? The answer to that involves a careful and thorough examination of the facts and proceedings in the case and the judgment of Barrett-Lennard, J.

In the year 1921 Melanie Lee applied to the Rent Assessment Board, under and by virtue of the provisions of s. 10 of the 1921 Rent Restriction Ordinance, for permission to take ejectment proceedings against her tenant one Lim Cheng Swee.

Her application came on for hearing before the Board on the 3rd of May 1921 in the absence of Lim Cheng Swee or anyone to represent him. The Board granted the application, being under the impression that Lim Cheng Swee had received notice of the hearing and was too indifferent to appear.

The Board was then informed by his solicitor that Lim Cheng Swee had not received the hearing notice which had been addressed to him through the post, whereupon the Board decided to rehear the application and fixed the 10th of May, 1921, as the date of such rehearing.

On that date the solicitor for Lim Cheng Swee appeared before the Board, but when called upon to present his case he said "It is not convenient for me to present my case to-day. My client is not here, I am not fully instructed so I cannot argue. I cannot produce evidence". The Board thereupon resolved to abide by the order which they had made at the first hearing on the 3rd of May, 1921.

Later on, however, a second application for a rehearing of the matter was made to the Board, and they fixed the 24th of May, 1921, as the date on which that second application would be heard.

On this occasion Melanie Lee appeared by Mr. P. H. Battishill, who took an objection that the Board had no power to rehear the case. This objection was upheld by the Board, apparently after hearing the arguments of Lim Cheng Swee's solicitor to the contrary.

Some seven or eight weeks after this decision of the Board Melanie Lee commenced ejectment proceedings against Lim Cheng Swee, and found herself impeded by a notice from the Board informing her that they had fixed the 4th of October, 1921, as the date on which yet another application to re-consider their original order of the 3rd of May, 1921, would be heard by them. This somewhat vexatious proceeding on the part of the Board seems to have struck Melanie Lee or her legal advisers as justifying the use of some heavy legal artillery, and so she applied to the High Court for a writ of prohibition, adressed to the Board, to prohibit them from proceeding with such rehearing.

Both Melanie Lee and Lim Cheng Swee appeared by Counsel when this application for a writ of prohibition came on for hearing before Barrett-Lennard, J., and I fell sure that the provisions of sub-s. 5 of s. 9 of the 1921 Rent Restriction Ordinance must have been referred to by each learned counsel in the course of his argument, though the report itself contains no account of those arguments.

Turning to the judgment itself the learned Judge, after rejecting a contention that the Board had never heard Melanie Lee's application for leave to bring ejectment proceedings against Lim Cheng Swee in the presence of both parties, states that in his opinion the Board were probably quite right when they first decided to rehear the case. "Up to that stage the Board were probably quite right. They had not heard the tenant and undoubtedly the tenant had a right to be heard." The learned Judge next dealt with the failure of Lim Cheng Swee's solicitor to call any evidence or put forward any arguments at the rehearing of the 10th of May, 1921, and remarks that "the Board then resolved to abide by the order they had made" on the 3rd of May 1921.

The Judgment continues as follows:—

"Later a second application for re-hearing was made, and the Board, being, obviously, very anxious not to commit themselves to an order which might possibly work a hardship upon the tenant, gave permission to him to present his case. When the day fixed for such review or re-hearing arrived objection was taken by Mr. Battishill, counsel for the landlord, that there was no power on the part of the Board to re-hear. The Board upheld this objection. In my opinion the resolution of the Board upholding the objection of Mr. Battishill was perfectly right. It is the policy of the law that Tribunals shall not review or re-hear cases. If they were at liberty to do so there would never be an end to judicial proceedings at all.

It seems to me, the policy of the law being to restrain Tribunals from re-hearing after they have decided in the presence of the parties, or after giving the parties the fullest opportunity of presenting their respective causes, that the Board here erred out of a spirit of tenderness towards the tenant in determining to re-hear this application. Accordingly I must, if necessary, issue the writ of prohibition."

Now there are five points in the learned Judge's judgment which seem to emerge quite clearly:—

1. He does not treat the proceedings of the Board on the 3rd of May 1921 as a nullity;

2. He does approve of the first rehearing of the 10th of May 1921, and of the Board's resolve thereat to abide by their order of the 3rd;

3. He specifically refers to the second application for a re-hearing as "a second application for re-hearing" and approves of the Board's decision thereon;

4. He makes no reference, direct or indirect, to sub-section 5 of s. 9 of the 1921 Ordinance, though it must have been cited to him during the argument; and

5. He decides to grant a writ of prohibition on the general principle that it is the policy of the law to restrain tribunals from rehearing (any matter) after they have decided it in the presence of the parties.

If I am right in regard to these five points, and I think that I am, it is surely something in the nature of a plunge into the dark to say that Melanie Lee's case is an authority for the proposition that the Rent Assessment Board had no power, under sub-s. 5 of s. 9 of the 1921 Ordinance, to re-hear a landlord's application for leave to take ejectment proceedings against his tenant. If it is an authority for anything at all in that connection, which I very much doubt, it is an authority for the proposition that the Board must not grant more than one rehearing of such an application on the part of the landlord.

For these reasons I am of opinion that the learned Chief Justice was wrong in holding that the question raised in this appeal was decided in Melanie Lee's case, and therefore the question whether "the full powers of rehearing, reconsideration and revision in any case", which are conferred on the Rent Assessment Board by sub-s. 5 of s. 7 of the original 1939 Ordinance did enable the Board to rehear a landlord's application for permission to eject a tenant does arise for our decision. The principle stated in the 8th Edn. of *Maxwell* on the Interpretation of Statutes at pages 269 and 270 and set out above, only applies where the judicial interpretation of a word, phrase or sentence is clear and unambiguous: see *Robinson Brothers (Breweries) Ltd. v. County of Durham Assessment Committee*[4].

There can be no doubt that the words of sub-s. 5 of s. 7 of the original 1939 Ordinance, if taken in their grammatical and ordinary sense, are wide enough to cover the rehearing of orders made by the Board on a landlord's application for leave to take ejectment proceedings against his tenant.

There can also be no doubt but that the fundamental principle—sometimes called the golden rule—for the construction of all statutes, wills and other written instruments is this:—"the grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnancy or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified so as to avoid that absurdity and inconsistency, but no farther" (*Grey v. Pearson*[5]).

Is there any good reason why that principle should not be applied here? Mr. Braddell contended that there is not, and he cited *Rex vs. Inhabitants of Newark*[6], *Cohen v. The South Eastern Railway Co.*[7], *Vacher & Sons Ltd. v. London Society of Compositors*[8] and several other cases to show that an enactment of general application, phrased in perfectly clear and unambiguous terms, is not to be construed as being of some restricted form of application merely because it is set out in a sub-section.

I do not propose to set out here any passages from the judgments in these cases, because, to my mind at any rate, they fully support and establish Mr. Braddell's contention. The curious will find passages which I might have quoted at pages 661 and 663 of 107 E.R., page 260 of 2 Ex. D., and pages 121 and 122 of 1913 A.C.

It is also clear, I think, that no inconvenience or absurdity could have resulted from applying the provisions of sub-s. 5 of s. 7 to all cases (including landlords' application for permission to take ejectment proceedings against their tenants) coming before the Board. Indeed, it would seem to be rather the other way about, for permission to eject a tenant may be just as important and grievous to the latter as permission to raise his rent.

Mr. Koek, in his able argument, strove hard to persuade us that the learned Chief Justice was right in the view which he took of Melanie Lee's case. In reply to Mr. Braddell's golden rule of construction he could only suggest that the *ejusdem generis* rule was on his side, and refer us to *In re Anglo-Greek Steam Company*[9].

I have considered the case and the rule, and I do not think that either of them can be prayed in aid here. The following passage from page 167 of the 4th Edn. of *Craies* on Statute Law is, in my opinion, sound law and directly in point:—

> "The **ejusdem generis** rule is one to be applied with caution and not pushed too far, as is the case in many decisions, which treat it as automatically applicable, and not as being, what it is, a mere presumption, in the absence of other indications of the intention of the Legislature (**Anderson v. Anderson,** (1895) 1 Q.B. 749) "Unless you can find a category," says Farwell, L.J. (**Tillmans & Co. v. S. S. Knutsford,** (1906) 2 K.B. 385), "there is no room for the application of the **ejusdem generis** doctrine," and where the words are clearly wide in their meaning they ought not to be qualified on the ground of their association with other words (**Provost, etc. of Glasgow v. Glasgow Tramway Co.,** (1898) A.C. 631)".

A similar expression of opinion is to be found at page 289 of the 8th Edition of *Maxwell* on the Interpretation of Statutes, where the learned author remarks "unless there is a genus or category there is no room for the application of the *ejusdem generis* doctrine". I respectfully agree, and would only add that I cannot see anything closely resembling a genus or category in s. 7 of the original 1939 Ordinance

Having come to the conclusions (a) that the learned Chief Justice was wrong in his view of the decision in Melanie Lee's case, and (b) that the golden rule must prevail over the *ejusdem generis* rule, at any rate in the construction of sub-s. 5 of s. 7 of the original 1939 Ordinance it seems to be that this Appeal must be allowed with costs both here and below, and that the appellant is entitled to a writ of *mandamus* if he still wants it. Both Counsel were agreed that the provisions of the original s. 11 sub-s. 1 of that Ordinance do not affect the question as to the proper

construction of sub-s. 5 of s. 7, and I agree with them. It is to be read merely as conferring on orders of the Board an immunity from proceedings to vary or set them aside in Courts of Law.

Manning, J.—I have read the judgments of the Acting Chief Justice, Federated Malay States, and of the Acting Judge of Appeal. I agree with their conclusions and with the grounds on which those conclusions are based.

Appeal allowed.

ARJAN SINGH vs. HASHIM ANGULLIA.

[Original Civil Jurisdiction (Aitken, J.A.)

September 1, 1941]

Moneylenders Ordinance (Cap. 218) s. 4—Memorandum of the contract.

There is no presumption that the provisions of the Moneylenders Ordinance have been complied with by the moneylender and the onus is always upon him to prove the same.

A borrower can always adduce evidence to show that the terms of the actual contract between him and the moneylender have not been truly and fully set out in the memorandum of contract prepared under s. 4 sub-s. 1 or sub-s. 4 of the Moneylenders Ordinance. Such evidence is evidence which would entitle a borrower to a decree or order under Proviso 1 to s. 93 of the Evidence Ordinance; and unless such facts can be proved s. 4 sub-s. 1 of the Ordinance would be nugatory and meaningless.

Cases referred to:—

(1) *R. Shanmuga Rajeswara Sethupathi v. Chidambaram Chettiar* A.I.R. (1938) 123 P.C.

(2) *Narain Singh v. D. Sundram* Singapore Suit No. 284 of 1939 (unreported).

(3) *Rebello v. Harbans Singh* (1933) M.L.J. 279.

(4) *Somasundaram Chetty v. Lim Ham Kai* (1927) S.S.L.R. 64.

(5) *Balkishen Das v. Legge* I.L.R. (Allahabad) Vol. 22 (149).

(6) *Maung Kjin v. Ma Shwa La* 44 I.A. 236.

(7) *Tsang Chuen v. Li Po Kwai* 1932 A.C. 715.

(8) *Khan v. Punjab National Bank* A.I.R. 1933 (Lahore) 965.

(9) *Chop Ban Aik v. Ang Khye Pang* (1939) S.S.L.R. 54; (1939) M.L.J. 282.

(10) *Allighan v. London and Westminster Loan Co.* 1940 3 A.E.R. 530.

(11) *Central Advance & Discount Corporation v. Marshall* 1939 2 K.B. 781.

(12) *Dunn Trust Ltd. v. Feetham* 1936 1 K.B. 22.

(13) *Ramanathan Chettiar v. Powell & Co.* Singapore Suit No. 105 of 1941 (unreported).

TRIAL OF ACTION.

A. Yellappa for plaintiff.

S. B. Aditan for 1st defendant.

John Laycock for 2nd defendant.

In this case the plaintiff, a Sikh moneylender, sued the defendants as the joint and several makers of a promissory note for $1,040. It was admitted that the transaction was a money lending transaction within the meaning of the Moneylenders Ordinance (Cap. 218) and particularly s. 4 and also pursuant to sub-s. 1 of that section the promissory note itself was the only note or memorandum of the contract prepared for the purposes of that section. The defendants pleaded (*inter alia*) that the terms of the contract had not been fully and correctly set out in the memorandum of the contract in that the amount lent was not $1,040 as appeared from the promissory note but only $60.00, and that it was one of the terms of the contract that the second defendant was only a surety, the whole loan having in fact been made to the first defendant. There were a number of other defences which are not material to this report as they were never decided.

Yellappa for the Plaintiff. The onus of proof is upon the defendant. The execution of the Promissory Note has been admitted. *R. Shanmuga Rajeswara Sethupathi v. Chidambaram Chettiar and others*[1]. Illustration (b) to Section 103 Evidence Ordinance. *Stone & Meston* on Burden of Proof at p. 101. Section 4 of the Moneylenders Ordinance (Cap. 218) is different from Section 6 of the English Moneylenders Act 1927. It contains no provision similar to Section 4 (4) of the local Ordinance.

John Laycock for the second defendant. There is no presumption that the moneylender has complied with all the requirements of the Moneylenders Ordinance. *Stone & Meston* on Moneylenders, 2nd Edn. p. 101. I submit this passage is correct law. Pedlow, J. recently ruled to exactly this effect in the unreported case of *Narain Singh v. D. Sundram & ors.*,[2].

S. B. Aditan for the first defendant adopted the argument by counsel for the second defendant.